

June 11, 2009

A Regular Meeting of the Zoning Board of Appeals of the Town of Lancaster, Erie County, New York, was held at the Lancaster Town Hall, 21 Central Avenue, Lancaster, New York, on the 11th day of June at 8:00 P.M., and there were

PRESENT:            MARK AQUINO, MEMBER  
                         JAMES PERRY, MEMBER  
                         LAWRENCE PIGNATARO, MEMBER  
                         RICHARD QUINN, MEMBER  
                         ARLIE SCHWAN, MEMBER  
                         ROBERT THILL, MEMBER  
                         JEFFREY LEHRBACH, CHAIRMAN

ABSENT:            NONE

ALSO PRESENT:    JOHANNA M. COLEMAN, TOWN CLERK  
                         GEORGE PEASE, ASSISTANT BUILDING INSPECTOR  
                         NICHOLAS LOCICERO, TOWN PROSECUTOR

The Affidavits of Publication and Posting of this Public Hearing are on file and a copy of the Legal Notice has been posted.

**PETITION OF RICHARD AND NICOLE KOTLAK**

THE 1st CASE CONSIDERED BY THE ZONING Board of Appeals was that of the petition of Richard and Nicole Kotlak, 34 Gale Drive, Lancaster, New York 14086 for one [1] variance for the purpose of erecting a six [6] foot high fence in a required open space area on premises owned by the petitioners at 34 Gale Drive, Lancaster, New York, to wit:

A variance from the requirements of Chapter 50, Zoning, Section 35C. of the Code of the Town of Lancaster. The premises upon which this variance is sought is a corner lot fronting on Gale Drive with an exterior side yard [considered a front yard equivalent] fronting on Grace Way. The petitioners propose to erect a six [6] foot high fence within the required open space area of the exterior side yard fronting on Grace Way.

Chapter 50, Zoning, Section 35C. of the Code of the Town of Lancaster limits the height of a fence or wall extending into a front yard or an exterior side yard [considered a front yard equivalent] to three [3] feet in height. The petitioners, therefore, request a three [3] foot fence height variance.

**The Clerk presented and entered into evidence the following items:**

Duly executed petition of the applicants with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioners of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

**PERSONS ADDRESSING THE BOARD**

Richard Kotlak	Proponent
Nicole Kotlak	Proponent

**IN THE MATTER OF THE PETITION OF RICHARD & NICOLE KOTLAK**

THE FOLLOWING RESOLUTION WAS OFFERED  
BY MR. LEHRBACH, WHO MOVED ITS  
ADOPTION, SECONDED BY MR. QUINN  
TO WIT:

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Richard and Nicole Kotlak and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 11th day of June 2009, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

**WHEREAS**, the applicants are the present owners of the premises in question.

**WHEREAS**, the property for which the applicants are petitioning is within a Residential District 1, (R-1) as shown on the Zoning Map of the Town of Lancaster.

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster has made the following findings:

That there will be an undesirable change in the character of the neighborhood by the granting of the area variance relief sought. (*Mr. Quinn dissents*)

That the benefit sought by the applicants cannot be achieved by some other method, feasible for the applicants to pursue, other than the area variance relief sought. The applicants desire the use of their full back yard and have the privacy that a six foot fence will provide.

That the requested area variance relief is substantial.

That the proposed area variance relief will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

That the alleged difficulty is self created but not to the extent necessary to preclude the granting of the area variance relief sought.

**NOW, THEREFORE, BE IT**

**RESOLVED** that based upon these findings, the relief sought be and is hereby **GRANTED**-subject to the following conditions which in the opinion of this board are appropriate conditions to minimize adverse effects on the character of the surrounding area and to safeguard the public health, safety, convenience and general welfare:

- That there will be 135° interior angles on the northeast and southeast corners of the fence to increase the sight lines.
- That there is a reasonable level of landscaping on exterior side of the fence.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

* MR. AQUINO	RECUSAL
MR. PERRY	VOTED YES
MR. PIGNATARO	VOTED YES
MR. QUINN	VOTED YES
MR. SCHWAN	VOTED YES
MR. THILL	VOTED NO
MR. LEHRBACH	VOTED NO

\* Mr. Aquino represented the petitioners in their purchase of this property, therefore he recused himself from deliberations.

The resolution granting the variance was thereupon **ADOPTED.**

June 11, 2009

THE 2nd CASE CONSIDERED BY THE ZONING Board of Appeals was that of the petition of Joseph and Michelle Gaik, 792 Hall Road, Lancaster, New York 14086 for three [3] variances for the purpose of constructing a 1,620 square foot pole barn on premises owned by the petitioners at 792 Hall Road, Lancaster New York, to wit:

- Chapter 50, Zoning, Section 9D.(4) of the Code of the Town of Lancaster limits the area of an accessory structure to 750 square feet. The petitioners, therefore, request an 870 square foot accessory use area variance.

- Chapter 50, Zoning, Section 9D.(2) of the Code of the Town of Lancaster limits the height of accessory structures to sixteen [16] feet. The petitioners, therefore, request a two [2] foot height variance.

- Chapter 50, Zoning, Section 9D.(1)(b) of the Code of the Town of Lancaster requires a fifteen [15] foot side yard lot line set back. The petitioners, therefore, request a five [5] foot west side yard lot line set back variance.

Copy of a letter notifying Town of Elma of the time and place of this public hearing.

## Michelle Gaik Petitioner

**IN THE MATTER OF THE PETITION OF JOSEPH & MICHELLE GAIK**

THE FOLLOWING RESOLUTION WAS OFFERED  
BY MR. LEHRBACH WHO MOVED ITS  
ADOPTION, SECONDED BY MR. PERRY  
TO WIT:

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Joseph and Michelle Gaik and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 11th day of June 2009, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

**WHEREAS**, the applicants are the present owners of the premises in question.

**WHEREAS**, the property for which the applicants are petitioning is within a Agricultural Residential District, (A-R) as shown on the Zoning Map of the Town of Lancaster.

**WHEREAS**, the Erie County Department of Environment and Planning has received a full copy of proposed zoning action and has made no recommendation.

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster has made the following findings:

That no undesirable change will be produced in the character of the neighborhood by the granting of the area variance relief sought; this is a rural neighborhood and a deep lot.

That no detriment to nearby properties will be created by the granting of the area variance relief sought.

That the benefit sought by the applicants cannot be achieved by some other method, feasible for the applicants to pursue, other than the area variance relief sought.

That the requested area variance relief is substantial.

That the proposed area variance relief will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

That the alleged difficulty is self created but not to the extent necessary to preclude the granting of the area variance relief sought.

That this board has taken into consideration the benefit to the applicants if the variance relief sought is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant.

That regarding variance number three, namely a five foot side yard variance to construct a pole barn with a ten foot side yard lot line set back, this board specifically notes that the movement of the proposed structure in compliance to fifteen feet code requirement would result in the needless destruction of several old growth trees.

**NOW, THEREFORE, BE IT**

**RESOLVED** that based upon these findings, the relief sought be and is hereby **GRANTED**-subject to the following condition which in the opinion of this board is an appropriate condition to minimize adverse effects on the character of the surrounding area and to safeguard the public health, safety, convenience and general welfare:

- That the color of the roof not be white or silver.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

MR. AQUINO	VOTED YES
MR. PERRY	VOTED YES
MR. PIGNATARO	VOTED YES
MR. QUINN	VOTED YES
MR. SCHWAN	VOTED YES
MR. THILL	VOTED YES
MR. LEHRBACH	VOTED YES

The resolution granting the variance was thereupon **ADOPTED.**

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ON MOTION DULY MADE, SECONDED AND CARRIED, the meeting was adjourned at 8:53 P.M.

Signed \_\_\_\_\_  
Johanna M. Coleman, Town Clerk and  
Clerk, Zoning Board of Appeals  
June 11, 2009